



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,043	08/13/1999	MICHAEL D. ELLIS	UV-97	3248

7590 09/03/2002

G VICTOR
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

LUU, SY D

ART UNIT	PAPER NUMBER
----------	--------------

2174

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PRG

Office Action Summary

Application No.

09/374,043

Applicant(s)

ELLIS ET AL.

Examiner

Sy D Luu

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 6-13, 25-32 and 44-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 14-24, 33-43 and 52-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 7, 9. 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election without traverse of Group I (claims 1-5, 14-24, 33-43 and 52-56) in Paper No. 13 is acknowledged.

Claim Objections

2. Claim 14 is objected to because of the following informalities: on line 11 the word "are" should be replaced by "the". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-5, 20-24 and 39-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al. ("Herz", US 6,020,883).

Art Unit: 2174

As per claims 1-2 and 4-5, Herz teaches a method for use in a client-server interactive television program guide system comprising: providing a user with an opportunity to define user preferences using an interactive television program guide client that is implemented on user television equipment, without requiring the user to navigate the Internet, providing the user preferences to a program guide server, and providing program guide data to the program guide client according to the user preferences, and generating a viewing recommendation based on the user preferences with the program guide server; displaying the user preferences with the interactive television program guide client on the user television equipment, providing software to the program guide client according to the user preferences, and providing Internet links to the program guide client according to the user preferences (col. 4, lines 14-17 and lines 44-61)

As per claim 3, Herz teaches the step of providing a user with an opportunity to designate a preference level for a plurality of preference attributes (col. 13, lines 39-42).

Claims 20-24 are similar in scope to claims 1-5 respectively, and are therefore rejected under similar rationale.

Claims 39-43 are similar in scope to claims 1-5 respectively, and are therefore rejected under similar rationale.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 14-19, 33-38 and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. ("Herz", US 6,020,883).

As per claims 14-15, Herz teaches a method for use in a client-server interactive television program guide system for tracking a user's viewing history, comprising: tracking a user's viewing history, storing the user's viewing history on a program guide server by storing a user defined expression with the program guide server, finding programs with the program guide server that are consistent with the user's viewing history, and indicating on user television equipment the programs found by the program guide server, with an interactive television program guide client implemented on the user television equipment (col. 25, lines 32-40 and 46-47; col. 26, lines 52-67). Herz does not explicitly disclose the programs found by the program guide server to include those that the user has not watched. However, Official Notice is given that indicating and displaying programs that users have not watched is well known in the art. It would have been obvious to an artisan at the time of the invention to include this feature with Herz's method in order to keep users informed of those programs that have not been watched.

Art Unit: 2174

As per claim 16, Herz teaches the step of calculating user demographic values with the program guide server (col. 4, lines 46-59).

As per claim 17, Herz further teaches the steps of:
providing a user with an opportunity to define a user preference profile with the interactive television program guide client implemented on user television equipment, storing the user preference profile on a program guide server, and finding programs with the program guide server that are consistent with the user preference profile, wherein: indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and that the user has not watched comprises indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and the user preference profile and that the user has not watched (col. 4, lines 14-17 and lines 44-61).

As per claim 18, Herz further teaches the step of: targeting advertising with the program guide server based on the user's viewing history; and displaying the advertising with the interactive television program guide client on the user television equipment (col. 29, lines 45-66).

As per claim 19, Herz teaches the step of collecting program ratings information with the program guide server based on the user's viewing history (col. 25, lines 38-42)

Claims 33-38 are similar in scope to claims 14-19 respectively, and are therefore rejected under similar rationale.

Claims 52-56 are similar in scope to claims 14 and 16-19 respectively, and are therefore rejected under similar rationale.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alexander et al. (US 6,177,931 B1)	Etheredge (US 6,172,674 B1)
Cragun et al. (US 5,973,683)	Darbee et al. (US 6,130,726)
Candelore (US 6,057,872)	Kigawa et al. (US 5,963,645)
Yen et al. (US 5,991,799)	Williams et al. (US 5,977,964)
Williams et al. (US 5,945,988)	Davis et al. (US 5,822,123)
Alten et al. (US 5,781,246)	

Inquires

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is **(703) 305-0409**. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

Art Unit: 2174

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'Sy D. Luu', with a long horizontal stroke extending to the right.

Sy D. Luu
Patent Examiner
August 22, 2002